

No. 11284

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

ALBERT DEL GUERCIO, District Director, Immigration and Naturalization Service, United States Department of Justice, District No. 16,

Appellant,

vs.

ESTHER PUPKO,

Appellee.

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

CHARLES H. CARR

United States Attorney

RONALD WALKER and

CLYDE C. DOWNING

Assistants U. S. Attorney

600 U. S. Post Office and Court House Bldg.

Los Angeles 12, Calif.

For Appellee:

ESTHER PUPKO in Pro. Per.

726 North Van Ness Avenue

Los Angeles 38, Calif. [1*]



TRIPPLICATE

(To be given to declarant when originally issued; to be made a part of the petition for naturalization or hereafter in the records of the court)

UNITED STATES OF AMERICA

DECLARATION OF INTENTION

(Invalid for all purposes seven years after the date hereof)

No. 11

In the _____ of _____

My full true and correct name is **ESTHER PUPKO**

(1) My present place of residence is **6612 Paces Street, Los Angeles, California**

(2) My occupation is **Waitress**

(3) I am **22** years old. (4) I was born on **12-8-19**

(5) My personal description is as follows: Sex **Female**, color **white**, complexion **light**, color of eyes **blue**, color of hair **red**, height **5** feet **4** inches, weight **120** pounds, visible distinctive marks **scar on neck**, race **Hebrew**, present nationality **Russian**

(6) I am **not** married, the name of my wife or husband is _____

(7) I was born at _____, he or she was born at _____, and entered the United States at _____, for permanent residence in the United States, and now resides at _____

(8) I have **no** children, and the name, sex, date and place of birth, and present place of residence of each of said children who is living, are as follows: _____

(9) My last place of habitation was **Kisheniv Russia**, under the name of **Pupko, Esther**, on **1-16-21**, on the **33 France**

(10) I emigrated to the United States for permanent residence in the United States under the name of **Pupko, Esther**

(11) Since my lawful entry for permanent residence I have **not** been absent from the United States, for a period or periods of 6 months or longer.

DEPARTED FROM THE UNITED STATES

RETURNED TO THE UNITED STATES

Port	Date (Month, day, year)	Vessel or Other Means of Conveyance	Port	Date (Month, day, year)	Vessel or Other Means of Conveyance

(12) I have **not** heretofore made declaration of intention: No. _____

(13) It is my intention in good faith to become a citizen of the United States and to reside permanently therein. (14) I will, before being admitted to citizenship, support and defend the Constitution of the United States and the laws of the United States. (15) I will, before being admitted to citizenship, support and defend the Constitution of the United States and the laws of the United States. (16) I am not an anarchist, nor a believer in the unlawful damage, injury, or destruction of property, or sabotage, nor a member of or affiliated with any organization or body of persons teaching or advocating the overthrow of the Government of the United States. (17) I certify that the photograph affixed to the duplicate and triplicate hereof is a likeness of me and was signed by me. I do swear (affirm) that the statements I have made and the intentions I have expressed in this declaration of intention subscribed by me are true to my knowledge and belief. SO HELP ME GOD.



Subscribed and sworn to (affirmed) before me in the form of oath shown above in this _____ day of _____, 1921, at _____, California.

Clerk of said Court, at _____, California, June 16, 1921, at _____, same District 42. I have

Certification No. 23-111957 from the Commissioner of Immigration and Naturalization, showing the lawful entry for permanent residence of the declarant above named on the _____ day of _____, 1921, and that the photograph affixed to the duplicate and triplicate hereof is a likeness of the declarant.

[SEAL]

Clerk of the _____

By _____

Form N-518
U. S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
(Revision of 11-3-41)

c10-1010-1 U. S. GOVERNMENT PRINTING OFFICE

Not less than 2 nor more than 7 years after the date the original of this declaration was made, and after you have lived in the United States for at least 5 years and in the State for at least 6 months, you may file a petition for naturalization (or second papers). You will not be notified by the Government or the clerk of court to file such petition. It will be necessary for you to make application, in person or by letter, to the nearest clerk of court exercising naturalization jurisdiction, or to a representative of the Immigration and Naturalization Service, for an application Form N-400. You should not wait to do this until near the close of the 7-year period, because if you do not file your petition with the court before the end of this 7-year period it will be necessary for you to file a new declaration of intention and wait at least another 2 years thereafter before you can file your petition for naturalization. However, a petitioner for naturalization who is married to a citizen of the United States is not required to make a declaration of intention as a basis for filing a petition for naturalization.

Applicants for naturalization, before being granted citizenship, must satisfy the judge of the naturalization court that they believe in the principles of the Constitution of the United States. The Immigration and Naturalization Service has prepared a citizenship textbook about the Constitution and Government of the United States which may be used by persons who have declared their intention to become citizens and who attend citizenship classes in the public schools. This book and the classes will help applicants to prepare themselves for the duties and responsibilities of American citizenship.

[Endorsed]: Filed Jul. 12, 1944. [3]

No. 23-113957

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

CERTIFICATE OF ARRIVAL

I Hereby Certify that the immigration records show that the alien named below arrived at the port, on the date, and in the manner shown, and was lawfully admitted to the United States of America for permanent residence.

Name: Pupco, Esther

Port of entry New York, N. Y.

Date: January 16, 1921

Manner of arrival: SS France

I Further Certify that this certificate of arrival is issued under authority of, and in conformity with, the provisions of the Nationality Act of 1940, solely for the use of the alien herein named and only for naturalization purposes.

In Witness Whereof, this Certificate of Arrival is issued
April 29, 1942

(Date)

[Illegible]

District Director of Immigration and Naturalization
By [Illegible]

[Stamped]: Received. U. S. Immigration & Nat'n.
Service. May 14, 1942 District Office Los Angeles
Form N-210 (N.Y.)

Old 161-IM. (N.Y.)

Edition of 1-13-41 [4]

[Endorsed]: Filed Jul. 12, 1944. [5]

vs. Esther Pupko

ORIGINAL
(To be retained by
Clerk of Court)

UNITED STATES OF AMERICA

No. 119

PETITION FOR NATURALIZATION

[Under General Provisions of the Nationality Act of 1940 (Public, No. 853, 76th Cong.)]

To the Honorable the DISTRICT Court of THE UNITED STATES of LOS ANGELES, CAL.

This petition for naturalization, hereby made and filed, respectively shows:

- (1) My full, true, and correct name is **ESTHER PUPKO** (formerly chg to Elaine Parker)
- (2) My present place of residence is **726 N. Van Ness Ave., Los Angeles, Cal.** My occupation is **photographer**
- (3) I am **24** years old. (5) I was born on **Dec. 8, 1919** in **Kishiniv, Roumania**
- (6) My personal description is as follows: Sex **female**, color **white**, complexion **fair**, color of eyes **blue**, color of hair **red**, height **5** feet **4** inches, weight **125** pounds, visible distinctive marks **scar on throat**, race **white**
- (7) I am **not** married, the name of my wife or husband is _____
- we were married on _____ (Date) at _____ (Place or country)
- he or she was born at _____ (Date) at _____ (Place or country)
- and entered the United States at _____ (Date) at _____ (Place or country) for permanent residence in the United States and now resides at _____ (Date) at _____ (Place or country)
- (8) I have **no** children, and the name, sex, date and place of birth, and present place of residence of each of said children who is living, are as follows _____
- (9) My last place of foreign residence was **Kishiniv, (Russia) Roumania** (10) I emigrated to the United States at **Le Havre, France** (11) My lawful entry for permanent residence in the United States was on **Jan. 16, 1921** under the name of **Esther Pupko** on the **SS France** as shown by the certificate of my arrival attached to this petition
- (12) Since my lawful entry for permanent residence I have **not** been absent from the United States, for a period or periods of 6 months or longer, as follows _____

DEPARTED FROM THE UNITED STATES			RETURNED TO THE UNITED STATES		
PORT	DATE (Month, day, year)	VESSEL OR OTHER MEANS OF CONVEYANCE	PORT	DATE (Month, day, year)	VESSEL OR OTHER MEANS OF CONVEYANCE

(13) I declared my intention to become a citizen of the United States on **June 16, 1942** in the **District** Court of **The United States** at **Los Angeles, Calif.** (14) It is my intention in good faith to become

a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty of whom or of which I am at present a subject or citizen, and it is my intention to reside permanently in the United States (15) I am not, and have not been for the period of at least one year immediately preceding the date of this petition, an anarchist, nor a believer in the unlawful damage, injury, or destruction of property, or sabotage, nor a disbeliever or opponent to organized government, nor a member of or affiliated with any organization or body of persons teaching disbeliefs in or opposition to organized government (16) I am able to speak the English language (unless physically unable to do so) (17) I am, and have been during all of the periods required by law, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States (18) I have resided continuously

in the United States of America for the term of 5 years at least immediately preceding the date of this petition, to wit, since **Jan. 16, 1921**

and continuously in the State in which this petition is made for the term of 6 months at least immediately preceding the date of this petition, to wit, since **Aug. 3, 1941** (19) I have **not** heretofore made petition for naturalization No. _____

on _____ (Date) at _____ (Place or country) in the _____ (Name of court)

Court, and such petition was dismissed or denied by that Court for the following reasons and causes, to wit: _____

and the same of such dismissal or denial has since been cured or removed.

(20) Attached hereto and made a part of this, my petition for naturalization, are my declaration of intention to become a citizen of the United States (if such declaration of intention is required by the naturalization law), a certificate of arrival from the Immigration and Naturalization Service of my said lawful entry into the United States for permanent residence (if such certificate of arrival is required by the naturalization law), and the affidavits of at least two verifying witnesses required by law.

(21) Wherefore, I, your petitioner for naturalization, pray that I may be admitted a citizen of the United States of America, and that my name be changed to _____

Elaine Parker

(22) I, undersigned petitioner, do swear (affirm) that I know the contents of this petition for naturalization subscribed by me, that the same are true to the best of my knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true, and that this petition signed by me with my full, true name: **SO HELP ME GOD.**

Subscribed and sworn to before me this _____ day of _____, 1942.

Esther Pupko
Full, true, and correct signature of petitioner, attested observations

AFFIDAVIT OF WITNESSES

The following witnesses, each being severally, duly, and respectively sworn, depose and say:

My name is Jean Chayat, my occupation is tailor shop prop.
 I reside at 3038 Reed Ave., Culver City, Calif.
 My name is Sally Leonard, my occupation is hawk
 I reside at 3038 Reed Ave., Culver City, Calif.
 I am a citizen of the United States of America, I have personally known and have been acquainted in the United States with Eather Pupco,
 the petitioner named in the petition for naturalization of which this affidavit is a part, since 1 Aug. 1941
 to my personal knowledge the petitioner has resided, immediately preceding the date of filing this petition, in the United States continuously since the date
 and at Los Angeles Co in the State of California continuously since Aug. 1941
 and know that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States,
 well disposed to the good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States.
 I do dear (affirm) that the statements of fact I have made in this affidavit of this petition for naturalization subscribed by me are true to the best of my knowledge and belief. SO HELP ME GOD

Jean Chayat Sally Leonard
 Subscribed and sworn to before me by the above-named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit
 the Clerk of said Court at Los Angeles, California this 12th day of July
 Anno Domini 1944 I hereby certify that Certificate of Arrival No. 23 113957 from the Immigration and Naturalization Service, showing the permanent residence of the petitioner above named, together with Declaration of Intention No. 115937 of such petitioners, is on file
 attached to, and made a part of this petition on this date.

Edmund J. [illegible] Charles B. [illegible] WIS OF THE
Southern District of California 8 DISTRICT
for [illegible] OF THE
OF
CALIFORNIA

OATH OF ALLEGIANCE

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion. SO HELP ME GOD. In acknowledgment whereof I have hereunto affixed my signature.

Sworn to in open court, this _____ day of _____, A. D. 19____

By _____

Dep _____

NOTE: In renunciation of title or order of nobility add the following to the oath of allegiance before it is signed: "I further renounce the title (titles) which I have heretofore held," or "I further renounce the order of nobility (give the order of nobility) to which I have heretofore belonged."

Petition granted: Line No. _____ of List No. _____ and Certificate No. _____

Petition denied: List No. _____

Petition continued from _____ to _____ Reason _____

6186365

SEP 28 1945

Form N

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Los Angeles District No. 16

Court Number: 246

Petition Number: 119703

CERTIFICATE OF LOYALTY

Whereas the President of the United States, acting under and by virtue of the authority vested in him by Paragraph (d), Section 326 of the Nationality Act of 1940 (54 Stat. 1150; 8 U. S. C. 726), has by Executive Order No. 9372 dated August 27, 1943, excepted from the classification of "alien enemy" all persons whom the appropriate District Director of Immigration and Naturalization shall, after investigation fully establishing their loyalty, certify as persons loyal to the United States; and

Whereas investigation fully establishes that the applicant named below is a person loyal to the United States;

Now, Therefore, I, the undersigned, acting pursuant to and by virtue of the discretion vested in me by the President of the United States in the Executive Order hereinbefore referred to, do hereby certify Esther Pupko to be a person loyal to the United States and as such entitled to exception from the classification of "alien enemy" for the sole and only purpose of applying for naturalization as a citizen of the United States.

In Witness Whereof, I have hereunto set my hand at Los Angeles, California, this twenty-fifth day of April

in the year of our Lord one thousand nine hundred and forty-five.

Albert Del Guercio

ALBERT DEL GUERCIO

District Director of Immigration and Naturalization
Los Angeles District [8]

[Endorsed]: Filed Apr. 26, 1945. [9]

DF-90

In the District Court of the United States,
Southern District, Central Division, at Los Angeles.

In the Matter of the Petition for Naturalization of
ESTHER PUPKO. No. 119703

MOTION FOR DENIAL

To the Honorable, the District Court of the United States
at Los Angeles:

The United States of America moves the Court for an order denying the aforesaid petition for naturalization on the grounds that: Petitioner has failed to establish good moral character for the period required by law.

Dated this 18th day of September, 1945.

For the United States:

ALBERT DEL GUERCIO,

District Director,

Immigration and Naturalization Service,

U. S. Department of Justice

By M. E. Barth

Naturalization Examiner [10]

[Endorsed]: Filed Sep. 19, 1945. [11]

U. S. Exh #1

No. 480

In the City Court of the City of Palm Springs,
County of Riverside, State of California.

The People of the State of California,

Plaintiff,

vs.

Elaine Parker,

Defendant.

1943. Feb. 1. Complaint upon oath made by Ralph Sturkie and filed accusing Elaine Parker of the commission of the offense of violation of Sec. 2, Ordinance No. 126, City of Palm Springs.

Feb. 1. Bail fixed at \$250.00.

Feb. 1. Defendant brought into court and arraigned. Complaint read to defendant and she is informed of her legal rights. Defendant gives her true name as Esther Pupko—complaint amended.

Feb. 1. Defendant pleads: Not guilty.

Feb. 1. Defendant waives a trial by jury.

Feb. 1. Trial set for Feb. 5, 1943, at eleven o'clock A. M.

Feb. 5. Cause called for trial. Consolidated for trial with case No. 481, People, etc. vs. Carole Palmer.

Complaint amended with leave of court, adding Count 2, charging violation Ordinance No. 127, City of Palm Springs.

Defendant re-arraigned. Pleads not guilty to Count 1; guilty to Count 2.

Witnesses sworn and examined by the People:

Ralph Sturkie

Witnesses sworn and examined for Defendants:

Esther Pupko

Carole Palmer

Feb. 5. Verdict of Court: Defendant guilty on both counts.

Feb. 5. Judgment: Wherefore it is by the court Ordered and Adjudged that the said defendant Esther Pupko is guilty of the crime of violation of Ordinance 126 Sub 2 and Ordinance 127 of City of Palm Springs, and that for said offense, said defendant be imprisoned in the county jail, County of Riverside, State of California, for the term of ten days, suspended upon condition defendant departs from City of Palm Springs before o'clock February 1943, and does not return prior to expiration of one year from date hereof.

Done in open Court this 5th day of Feb. 1943.

Guy Pinney

Judge of the City Court.

I hereby certify that the above is a full, true and accurate copy of the docket entries, and all of the same, in the above-entitled action No. 480 in said Court, entitled The People of the State of California, Plaintiff vs. ~~Elaine Parker~~ Esther Pupko, Defendant, as the same appear of record this date in Docket No. 2 at Page 180 of the City Court of the City of Palm Springs, Riverside County, State of California, which said Docket is now in my official custody.

Witness my hand and seal this 21st day of February, 1945.

Guy Pinney

City Judge, City of Palm Springs [12]

ORDINANCE NO. 126

An Ordinance of the City of Palm Springs
Prohibiting Disorderly Conduct.

The City Council of the City of Palm Springs does ordain as follows:

Section 1: No person at any time within this City shall solicit any other person to have sexual intercourse with any person of the opposite sex to whom the person solicited is not married.

Section 2: No person shall occupy or resort to any public park, any of the buildings therein, or to any room, rooming house, lodging house, residence apartment house, hotel or other building within the City with a person to whom he or she is not married, either for the purpose of having sexual intercourse or any other immoral purpose.

Section 3: No person within the City shall cause, procure, induce, persuade, invite, suggest or encourage any other person to patronize a prostitute or house of prostitution or direct or conduct another to a prostitute or place where prostitutes may be hired or obtained. No person within the City shall take, or offer or agree to take another person to any place with knowledge or reasonable cause to believe that such taking, offering or agreeing to take the other is for the purpose of prostitution, or other immoral purpose.

Section 4: No person shall rent, or allow the use of any room or apartment within the City with knowledge that such room or apartment is to be used for the purpose of sexual intercourse between persons who are not married to each other.

Section 5: No driver of any taxicab or other vehicle used to transport persons for hire, shall permit any per-

son to occupy or use such vehicle for the purpose of prostitution or lewdness, nor shall such driver direct, take or transport any person to any building or place, or to any other person, with knowledge or reasonable cause to believe that the purpose of such direction, taking or transporting is lewdness or prostitution.

Section 6: Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than Three Hundred (\$300.00) Dollars, or by imprisonment in the Riverside County Jail for a period of not more than three (3) months, or by both such fine and imprisonment. Such person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provisions of this ordinance is committed, continued or permitted by such person, and shall be punishable therefor as provided in this ordinance.

Section 7: The City Clerk is hereby ordered and directed to certify to the passage of this ordinance and to cause the same to be published once in The Palm Springs Limelight News, a newspaper of general circulation, printed, published and circulated in the City of Palm Springs. This ordinance shall be in full force and effect thirty days after passage.

F. V. SHANNON

Mayor of the City of Palm Springs

Attest:

VIRGINIA R. O'BRIEN,

Acting City Clerk of the City of Palm Springs,
California

I, the undersigned, Acting City Clerk of the City of Palm Springs, California, hereby certify that the foregoing ordinance, being Ordinance No. 126 of the City of Palm Springs, was introduced at a meeting of the City Council of said City held on the 4th day of November, 1942, and was then read in full and was passed at an adjourned regular meeting of said Council held on the 18th day of November, 1942, by the following vote: [13]

Ayes: Councilmen Adams, Connell, Housman, Boyd, Sorum and Mayor Shannon.

Noes: None.

Absent: Councilman Bacon L. Clifton.

I further certify that said Ordinance was thereupon signed by F. V. Shannon, Mayor of the City of Palm Springs, and attested by Virginia R. O'Brien, Acting City Clerk of said City.

Witness my hand and the seal of said City this 19th day of November, 1942.

(City Seal)

VIRGINIA R. O'BRIEN

Acting City Clerk of the City of Palm Springs,
California

I hereby certify that the foregoing ordinance and certificate were published November 20, 1942 in the Palm Springs Limelight-News, a weekly newspaper of general circulation printed, published and circulated in the City of Palm Springs.

City Clerk of Palm Springs, California [14]

In the *Justice's* City Court of the City of Palm Springs
~~Township~~ County of Riverside, State of California

No. 480

The People of the State of California,

Plaintiff,

vs.

~~Elaine Parker~~

Esther Pupko

Defendant

COMPLAINT—CRIMINAL

Ralph Sturkie being first duly sworn, on oath says:

That the crime of a misdemeanor, to-wit: violation of Section 2 of Ordinance No. 126 of the City of Palm Springs has been committed, and that the above named defendant ~~Elaine Parker~~ Esther Pupko is guilty thereof; Committed as follows:

That said ~~Elaine Parker~~ Esther Pupko in the City of Palm Springs in the City of Palm Springs Township in the County of Riverside, State of California, on or about the 31st day of January, 1943, did wilfully and unlawfully resort to a public park, building therein, room, rooming house, lodging house, residence, apartment house, hotel or other building within the City of Palm Springs, to-wit: Room 32, Royal Palms Annex at 226 N. Palm Canyon Dr., with a person to whom said defendant was not married, for the purpose of having sexual intercourse, and for other immoral purposes. [RMS-GP, J]

For a second count being an offense of the same class, to-wit, a misdemeanor, to-wit, a violation of Ordinance No. 127, of the City of Palm Springs, has been committed and that the above named defendant is guilty thereof, committed as follows: the said defendant in the City of Palm Springs, County of Riverside, State of California, on or about the 26th day of January, 1943, did willfully and unlawfully write and allow to be written upon the register of the Royal Palms Hotel Annex, a hotel, the name, quote "Elaine Parker" being other than her true name, the said defendant being then and [2/5/43 RWS GP, J] person engaging and to whom there was furnished a room at said hotel.

Whereof complainant prays that a warrant of arrest may be issued for the said defendant and thathe.... be dealt with according to law.

Ralph Sturkie

Subscribed and sworn to before me this 1st day of Feb., 1943.

Guy Pinney

City Judge, City of Palm Springs
~~Justice of the Peace~~ Township
Riverside County, California

Underscored portion and second paragraph constitute amendment to complaint.

A true copy of the complaint in the above entitled action as amended.

Guy Pinney

City Judge, City of Palm Springs, Riverside County,
California.

Exhibit "B" [15]

ORDINANCE NO. 127

An Ordinance of the City of Palm Springs Requiring
Registration in Hotels and Repealing Ordinance No. 17.

The City Council of the City of Palm Springs does ordain as follows:

Section 1: Every owner, keeper or proprietor of any lodging house, rooming house or hotel shall keep a register wherein he shall require all guests, roomers or lodgers to inscribe their names and addresses upon their procuring lodging or a room or accommodations. Said register shall also show the day of the month and year when said name was inscribed, and the room occupied or to be occupied by said lodger, or roomer or guest in such lodging house, rooming house or hotel. Said register shall at all times be open to inspection by the Chief of Police or any regular policeman of the City of Palm Springs.

Section 2: Before furnishing any lodging for hire to any person in any lodging house, or before renting any room to any person in any rooming house, or before furnishing any accommodations to any guest at any hotel, the proprietor, manager or owner thereof, shall require

the person to whom such lodgings are furnished, or room is rented, or accommodations furnished, to inscribe his name and address in such register kept for that purpose as hereinbefore provided, and shall set opposite said name the time when said name was so inscribed, and also the room occupied by such lodger, roomer or guest.

Section 3: Every person engaging or to whom there is furnished any room or accommodations at a lodging house, rooming house or hotel shall first sign the register and give the information as provided in the preceding sections.

Section 4: No person referred to in the preceding Section three shall write or allow to be written any other than his true name and address upon such registration, nor shall any person write thereon other than the true name and address of any other guest upon such registration.

Section 5: Ordinance No. 17 of the City of Palm Springs adopted August 3rd, 1938, is hereby repealed.

Section 6. The City Clerk is hereby ordered and directed to certify to the passage of this ordinance and to cause the same to be published once in the Palm Springs Limelight-News, a newspaper of general circulation, printed, published and circulated in the City of Palm Springs. This ordinance shall be in full force and effect thirty days after passage.

F. V. SHANNON,
Mayor of the City of Palm Springs.

Attest:

VIRGINIA R. O'BRIEN,

Acting City Clerk of the City of Palm Springs,
California.

I, the undersigned, Acting City Clerk of the City of Palm Springs, California, hereby certify that the foregoing ordinance, being Ordinance No. 127 of the City of Palm Springs, was introduced at a meeting of the City Council of said City held on the 4th day of November, 1942, and was then read in full and was passed at an adjourned regular meeting of said Council held on the 18th day of November, 1942, by the following vote:

Ayes: Councilmen Adams, Connell, Housman, Boyd, Sorum and Mayor Shannon.

Nones: None.

Absent: Councilman Bacon L. Clifton.

I further certify that said Ordinance was thereupon signed by F. V. Shannon, Mayor of the City of Palm Springs, and attested by Virginia R. O'Brien, Acting City Clerk of said City.

Witness my hand and the seal of said City this 19th day of November, 1942.

(City Seal)

VIRGINIA R. O'BRIEN,

Acting City Clerk of the City of Palm Springs,
California.

Form N-400
(Old A-2214)
U. S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
(Edition of 7-15-42)

TYPE OR PRINT

No. 225-112

Application for a Certificate of Arrival and Preliminary Form for Petition for Naturalization

For use in searching records of arrival:

RECORDS EXAMINED

RECORD FOUND

Card index _____
Index books _____
Manifests _____

Place _____
Name _____
Date _____
Manner _____
Marital status _____

Use Form N-215 in issuing certificate of arrival on this application.

(Signature of person making arrival)

TO THE APPLICANT; DO NOT WRITE ABOVE THIS LINE. READ CAREFULLY AND FOLLOW THE INSTRUCTIONS ON LAST PAGE HEREOF.
Take or mail this application and your money order to:

IMMIGRATION AND NATURALIZATION SERVICE District Director Date
Los Angeles, Calif. Immigration & Naturalization Service
458 S. Spring St., Roman Bldg.
Los Angeles 13, California

ESTHER DUPUIS residing at 726 N. VAN NUT ST.
LOS ANGELES, CALIF. I desire to file a petition for naturalization.
(City or town) (State) (Number and street)

I submit herewith Court at U. S. District Court, Los Angeles, Calif. I submit herewith
(City or town) (State)

I hereby apply for a Certificate of Arrival (if required) showing my lawful entry into the United States for permanent residence and enclose money order for \$2.50, payable to the order of the "Commissioner of Immigration and Naturalization, Washington, D. C.," in payment thereof reference to "Money Order," page 4.)

(1) I arrived in the United States through the port of NEW YORK, NEW YORK
under the name of ESTHER DUPUIS on JAN 16 1929
on the vessel FRANCIS
(If arrival was through (Canada) I arrived at the port of (City or town) (State) (Number and street)
(City or town) (State) (Number and street) on the vessel (City or town) (State) (Number and street)

(2) I have ~~not~~ been absent from the United States as follows:
(Dates of departure and return, ports of entry, and names of vessels at other places of arrival)

I have ~~not~~ been absent at any other time.

(3) I have ~~not~~ used another name in this country than that given above. (If so) It was _____
I used that name because _____

(4) The full name of the person shown on my steamship ticket was ESTHER DUPUIS

(5) I was born in KISHINEV, RUSSIA on DEC 8, 1891
(City or town) (State) (Number and street)

(6) My father's full name is/was MAX DUPUIS
(City or town) (State) (Number and street)

(7) My mother's maiden name was TELLNISA, FANNIG

(8) (If a married woman) My maiden name was _____

(9) My last foreign residence was KISHINEV, RUSSIA
(City or town) (State) (Number and street)

(10) The place where I took the ship or train which landed me in the United States was LE HAVER, FRANCE
(City or town) (State) (Number and street)

(11) The ticket on which I came to this country was bought at LE HAVER, FRANCE
(City or town) (State) (Number and street)

(12) (If arrival by ship) Name of steamship line was FRENCH LING
first, second, or third cabin _____ I arrived as a passenger, stowaway, seaman, member of
otherwise PASON GER

(13) I traveled on (an immigration visa, a passport, or permit to reenter) PASSPORT

(14) I paid \$ 1.00 head tax at LE HAVER, FRANCE on JAN 8, 1929
(City or town) (State) (Number and street)

(15) I was examined by United States immigration officers at LE HAVER, FRANCE
(City or town) (State) (Number and street)

(16) (If not examined, state why, and the circumstances of your entry) _____

(17) The person in the United States whom I was coming was HARRY LEVONISY, IN
(City or town) (State) (Number and street)

(18) The place in the United States which I was going was NEW YORK, N.Y.
(City or town) (State) (Number and street)

(19) The names of some of the passengers or other persons I traveled with and their relationship, if any, are MOTHER, FATHER, AND SISTER ISATE

(20) In what places in the United States have you resided?

Now York, N.Y. From VAN, 1921 to AUG, 1921
 Los Angeles, Calif From AUG, 1941 to JUN, 1941

(21) What were the names, occupations, and addresses of your employers during the last 5 years?

1. J. P. ... 2. ... 3. ... 4. ... 5. ...

(22) Do you understand the principles of government of the United States?

(23) Do you fully believe in the form of government of the United States?

(24) Are you ready to answer questions as to the principles and form of government of the United States?

(25) Have you read the following oath of allegiance?

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion. So Help Me God.

Are you willing to take this oath in becoming a citizen?

Of what country are you now a citizen or subject?

(26) If necessary, are you willing to take up arms in defense of this country?

Have you ever, during the time this country was at war, deserted the military or naval forces of the United States, or departed from the jurisdiction of the United States to avoid draft into the military or naval forces of the United States?

(27) If not now married, have you ever been married?

(28) Are you a believer in anarchy or the unlawful damage, injury, or destruction of property, or sabotage?

(29) Have you ever been an inmate of an insane asylum?

(30) Have you ever been arrested or charged with violation of any law of the United States or State or any city ordinance or traffic regulation?

If so, give full particulars

(31) (a) In what place in the United States did you meet for the first time your first witness named on the opposite page?

How often have you seen this witness each month since the date you first met him (her)?

At what places?

(b) In what place in the United States did you meet for the first time your second witness named on the opposite page?

How often have you seen this witness each month since the date you first met him (her)?

At what places?

(32) Have you ever been deported from the United States, or are deportation proceedings now pending against you?

If so, state all facts

(33) Was your father or mother ever a citizen of the United States?

If so, state all facts

(34) Did you register under the Alien Registration Act of 1940?

If so, state the number of your Alien Registration Receipt Card

(35) Did you yourself fill out this form?

If not, give the name and address of the person who did

I certify that all the statements made by me in this application and form are true to the best of my knowledge and belief

FILED

Esther Pupko

226 J. Van Ness Ave

MAR 4 1941

By [Signature]

Special Agent

(-1111)

[20]

I hereby certify that the foregoing ordinance and certificate were published November 20, 1942 in the Palm Springs Limelight-News, a weekly newspaper of general circulation, printed, published and circulated in the City of Palm Springs.

City Clerk of Palm Springs, California.

Case No. 119703. In re Petn. of Esther Pupko. U. S. Exhibit #1, Date Sep. 28, 1945. No. 1 Identification. Date Sep. 28, 1945. No. 1 in Evidence. Clerk, U. S. District Court, Sou. Dist. of Calif. J. M. Horn, Deputy Clerk. [16]

[Minutes]: Friday, September 28, 1945]

Present: The Honorable Peirson M. Hall, District Judge.

This matter coming on before the Court for hearing on the Petition of Esther Pupko for naturalization; Mark E. Barth, Naturalization Examiner, appearing for the Government; the petitioner being present:

Kathleen Parker is called, sworn, and testifies for the Government.

The petitioner is called, sworn, and testifies.

The petition is ordered granted and the Oath of Allegiance is administered to the petitioner in open court. [21]

Original

Form N-484

U. S. Department of Justice
Immigration and Naturalization Service

(Edition of 9-1-43)

Book 8 Page 340

Date September 28th, 1945 List No. three

This list consists of four sheets. Sheet No. 1.

NATURALIZATION PETITIONS
RECOMMENDED TO BE DENIED

To the Honorable the United States District Court of
Southern District of California sitting at Los Angeles,
California

Kathleen Parker; Homer Terrill; Gerald Bolton; George
Scallorn; Joseph Dummel; Samuel Hozman; Frank Burns;
Ernestine Tolin; Mark Barth; Emanuel Braude; Ed-
ward Davis duly designated under the Nationality Act

(Name(s) of designated officer(s))

of 1940 (54 Stat. 1156) to conduct preliminary hearings
upon petitions for naturalization to the above-named Court
and to make findings and recommendations thereon, has
personally examined under oath at a preliminary hearing
the following seventy-seven (77) petitioners for naturali-
zation and their required witnesses, has found for the
reasons stated below, that such petitions should not be
granted, and therefore recommends that such petitions be
denied.

No.	Petition No.	Name of Petitioner	Reason for Denial
1	2659-M	Victor John Rosi	Petitioner has failed to establish
2			good moral character for the period
3			required by law.
4			
5	109903	Adalbert Frank Horna	Petitioner has failed to establish
6			good moral character for the period
7			required by law.
8			
9	119703	Esther Pupko	Petitioner has failed to establish
10			good moral character for the period
11			required by law.
12			
13	122706	Beatrice Kendall Roy- lance	Petitioner has failed to establish
14			continuous legal residence in the
15			United States for the period re-
16			quired by law.
17			
18	99471	Leslie Frank Meadows	Petitioner Deceased
19	113496	Wilma Rauha Ahlman	Petitioner Deceased
20	104578	Wolfgang Hans Wohlauer	Naturalized Elsewhere
21	107105	Iole Canepari	Naturalized Elsewhere
22	107895	Jack Kestelman	Naturalized Elsewhere
23	R-2430	Virginia Lee Berg	Want of Prosecution
24	3284-M	Walter Henry Watkins	Want of Prosecution
25	3363-M	Hobert Andre Aha- ronian	Want of Prosecution
26	87314	Mary Christine Strut- zel	Want of Prosecution
27	87662	Vilma Hertha Young	Want of Prosecution
28	93749	Gaetano Erbeta	Want of Prosecution
29	95486	Degenhard Von Wurm- brand-Stuppach	Want of Prosecution
30	97556	Hermann Schmitt	Want of Prosecution
31	98050	Lillian Elizabeth Myers	Want of Prosecution
32	98954	Carlota Cross	Want of Prosecution
33	99080	Jesus De La Rosa Luebano	Want of Prosecution
34	99887	Frederick Abel	Want of Prosecution
35	102205	Clara Viola Kleewein	Want of Prosecution

Respectfully submitted,

M. E. Barth

(Signature of officer in attendance at final hearing)

Date September 28th, 1945. [22]

Original

Form N-484-A

U. S. Department of Justice
Immigration and Naturalization Service

(Edition of 5-15-44)

Book 8 Page 343

Date September 28th, 1945. List No. three

This list consists of four sheets. Sheet No. four

ORDER OF COURT

State of California)
) ss:
County of Los Angeles)

In the United States District Court of Southern District
of California

Upon consideration of the petitions for naturalization listed on List No. three sheet(s) 1 to four dated September 28th, 1945, presented in open Court this twenty-eighth day of September A. D., 1945, It Is Hereby Ordered that each of the said petitions be, and hereby is, denied, except those petitions listed below.

Recommendation of Designated Officer Is Disapproved as to the Petitions Listed Below, and each of said petitioners so listed having appeared in person, It Is Hereby Ordered that each of them be, and hereby is, admitted to become a citizen of the United States of America. Prayers for change of name listed below granted, except in petition(s) No.

	Petition No.	Name of Petitioner	Change of Name
1	109903—	Adalbert Frank Horna	Albert Frank Horna
2	119703—	Esther Pupko	Elaine Parker
	*	*	*

It is further ordered that petitions listed below be continued for the reasons stated.

Petition No.	Name of Petitioner	Cause for Continuance
2659-M	Victor John Rosi	off calendar
122706	Beatrice Kendall Roylance	Continued until October 26, 1945
*	*	*

By the Court

Peirson M. Hall
M.E.B. Judge. [23]

In the District Court of the United States in and for the
Southern District of California
Central Division
No. 119703-PH

In the Matter of the Petition of:
ESTHER PUPKO
for Naturalization

NOTICE OF APPEAL

To: Esther Pupko, petitioner and appellee:

You Will Please Take Notice that Albert Del Guercio, District Director, Immigration and Naturalization Service, United States Department of Justice, District No.

16, the respondent and appellant herein, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and order of the above entitled District Court entered on September 28th, 1945, and from the whole thereof, granting the petition for naturalization of the said Esther Pupko.

Dated: December 26, 1945.

CHARLES H. CARR

United States Attorney

RONALD WALKER and

CLYDE C. DOWNING

Assistant United States Attorneys

By Clyde C. Downing

Attorneys for Respondent

[Endorsed]: Filed & mld. copy to Esther Pupko, petnr.
Dec. 26, 1945. [24]

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO FILE RECORD
AND DOCKET APPEAL

Good cause appearing therefor,

It Is Ordered that the time for filing the record and docketing the appeal in the United States Circuit Court of Appeals for the 9th Circuit be, and it is hereby, extended to March 15, 1946.

Dated: This 22nd day of January, 1946.

LEON R. YANKWICH

Judge, United States District Court

[Endorsed]: Filed Jan. 22, 1946. [25]

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO FILE RECORD
AND DOCKET APPEAL

Good cause appearing therefor,

It Is Ordered that the time for filing the record and docketing the appeal in the United States Circuit Court of Appeals for the 9th Circuit be, and it is hereby, extended to March 27, 1946.

Dated: This 5 day of March, 1946.

PEIRSON M. HALL

Judge, United States District Court

[Endorsed]: Filed Mar. 5, 1946. [26]

[Title of District Court and Cause.]

MOTION FOR AN ORDER DIRECTING THE
CLERK TO CERTIFY CERTAIN NATURALI-
ZATION RECORDS.

Comes Now Albert Del Guercio, District Director, Immigration and Naturalization Service, United States Department of Justice, District No. 16, and moves the Court as follows: That the Clerk be directed to certify the following documents considered by the Court in the above matter and include said documents in the record on appeal; to wit,

1. Declaration of Intention of the Appellee.
2. Certificate of Arrival Relating to the Arrival of the Appellee in the United States.
3. Petition for Naturalization of the Appellee.

That said appellant on December 18, 1945, filed a notice of appeal and is now in the process of perfecting said appeal, and that it is necessary that the above documents be included in the record on appeal so that the Circuit Court of Appeals may have before it said documents considered by the trial Court in its determination.

ALBERT DEL GUERCIO

District Director, Immigration and Naturalization
Service, United States Department of Justice,
District No. 16

[Endorsed]: Filed Mar. 9, 1946. [27]

[Title of District Court and Cause.]

ORDER DIRECTING CLERK TO MAKE
CERTIFICATION OF NATURALIZATION
RECORDS

It appearing that Albert Del Guercio, District Director, Immigration and Naturalization Service, United States Department of Justice, District No. 16, appellant herein, has filed a notice of appeal on December 28, 1945, in the above matter and is now in the process of perfecting said appeal; it also appearing that under section 341(e) of the Nationality Act of 1940 (Title 8 U. S. C. A. 741(e)) the Clerk is prohibited from making certification of Naturalization records without an order of Court; and said appellant having filed motion for an order directing the Clerk to certify said records, and good cause appearing therefor;

It Is Ordered that the Clerk of this Court issue its certification of the following naturalization records; to wit,

(1) Declaration of Intention of the Appellee,

(2) Certificate of Arrival relating to the arrival of the appellee in the United States,

(3) Petition for naturalization of the appellee; [28] and to be included as a part of the record on appeal herein.

Dated: This 13 day of March, 1946.

PEIRSON M. HALL

Judge, United States District Court

[Endorsed]: Filed Mar. 9, 1946. [29]

[Title of District Court and Cause.]

MOTION OF APPELLANT FOR ORDER DIRECTING THAT DOCUMENT CONSIDERED BY THE COURT AND WITHDRAWN BE RETURNED TO THE FILES TO BE INCLUDED AS PART OF RECORD ON APPEAL

Comes Now Albert Del Guercio, District Director, Immigration and Naturalization Service, United States Department of Justice, District No. 16, appellant herein, and moves the Court for an order directing the Clerk of this Court to file the document designated as "Application for a Certificate of Arrival and Preliminary Form for Petition for Naturalization" considered by the Court upon the hearing in the above-entitled matter on Septem-

ber 28, 1945, and withdrawn upon request of the appellant at the time of the hearing. That said appellant filed a notice of appeal herein on December 28, 1945, and is now in the process of perfecting said appeal, and it is necessary that said document be made a part of the record on appeal so that the Circuit Court of Appeals may have before it all of the documents considered by the trial Court in its determination.

ALBERT DEL GUERCIO

District Director, Immigration and Naturalization
Service, United States Department of Justice,
District No. 16 [30]

[Title of District Court and Cause.]

AFFIDAVIT

In the United States of America
Southern District of California, Central Division

State of California)
) ss
County of Los Angeles)

Mark E. Barth, being first duly sworn, deposes and says:

That he was present at the hearing on September 28, 1945 of the petition of Esther Pupko for naturalization, and in his official capacity as Naturalization Examiner of the Immigration and Naturalization Service, United States Department of Justice, he personally questioned the said Esther Pupko in open court before the Honorable Peirson M. Hall, presiding judge of the court;

That during the course of the hearing on the said petition for naturalization the annexed Immigration and Naturalization Service Form N-400, entitled "Application for Certificate of Arrival and Preliminary Form for Petition for Naturalization," which is made a part of this affidavit, was identified by the said Esther Pupko as having been executed by her and was used in evidence during the hearing, and that the said Form N-400 herein referred to is identical with and is the same document used at the hearing and referred to in the reporter's transcript beginning at page 8 and withdrawn from the evidence at his request, with permission of the court at the close of the hearing, as reflected by the reporter's transcript at page 41; [31]

That the affiant, Mark E. Barth, says that he is the person who makes the aforesaid affidavit; that he has read the same and knows the contents thereof; and that the same is true according to the best of his knowledge, information and belief.

MARK E. BARTH

Subscribed and sworn to before me this 12th day of March, 1946.

EDMUND L. SMITH

Clerk U. S. District Court, Southern District of
California

By Geo. E. Ruperich
Deputy Clerk of the United States District
Court

[Endorsed]: Filed Mar. 9, 1946. [32]

[Title of District Court and Cause.]

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Los Angeles, California, Friday, September 28, 1945

Appearances:

For the Government: Mark E. Barth, Esq., Naturalization Examiner.

For the Applicant: In Propria Persona.

Los Angeles, California, Friday, September 28, 1945.

3:30 P. M.

The Court: Which one do you want to take up first, Mr. Barth?

Mr. Barth: We will take up the matter of Esther Pupko.

The Court: Come forward and be sworn.

ESTHER PUPKO,

called as a witness in her own behalf, having been first duly sworn, testified as follows:

Direct Examination

The Clerk: Will you state your name, please?

The Witness: My name is Esther Pupko.

The Clerk: And your residence?

The Witness: 726 North Van Ness Avenue.

The Clerk: Take the stand, there.

Mr. Barth: If the Court please, the recommendation now is based upon the arrest and conviction within the statutory period, at Palm Springs, California, in 1943 of the petitioner. The petitioner was convicted of a city ordinance on a morals charge and of having registered in a hotel under a name other than her own true name.

(Testimony of Esther Pupko) .

The Court: That is the only conviction?

Mr. Barth: That is the only conviction.

The Court: She was convicted of a violation of two ordinances, and but one conviction. [2*]

Mr. Barth: There were two counts on which she was convicted.

The Court: One involving a morals charge, in registration at a hotel. It was the same act, I suppose?

Mr. Barth: No. She registered at the hotel some days prior. The arrest for the morals charge occurred four or five days after her registration there.

The Court: I see.

Mr. Barth: Then on the further ground that the petitioner throughout the proceedings has denied that she had ever been arrested, gave false testimony at the time she filed her petition for naturalization, and until confronted with the evidence that she had been arrested, and she then said that she had determined not to reveal it, feeling that should she do so her application would be denied immediately, but that if she didn't tell us about it she would find out and she would have a chance to explain it.

The Court: This petition was filed under the general provisions of the Nationality Act?

Mr. Barth: Yes, your Honor. The five-year period applies, dating back to July 12, 1939. The petition was filed on July 12, 1944.

The Court: All right. Proceed.

*Page numbering appearing at top of page of original Reporter's Transcript.

(Testimony of Esther Pupko)

Mr. Barth: For the purpose of the record, your Honor, I would like to introduce at this time into evidence— [3]

The Court: Do you have a lawyer?

The Witness: No, I don't, your Honor.

The Court: Don't you want a lawyer?

The Witness: Well, is there any reason why I can't be my own lawyer and can speak for myself?

The Court: There isn't any reason at all.

The Witness: Thank you.

Mr. Barth: Your Honor, I desire to introduce in evidence a copy of the two city ordinances that the petitioner was charged with, and a certified copy of the complaint filed against the petitioner in Riverside, and a certified copy of the court docket record showing the history of the case.

The Court: You have seen all of these, have you?

The Witness: I don't know whether I have or not, your Honor. I don't know what those are.

The Court: Here is the complaint in the criminal case. You saw that?

The Witness: Yes.

The Court: You have seen the docket record?

The Witness: I don't remember. No, I haven't seen this at all.

The Court: And the ordinance prohibiting disorderly conduct?

The Witness: Well, I—

The Court: Well, let me read this one, and you can read [4] that one (indicating).

(Testimony of Esther Pupko)

The Witness: I understand what it is, though.

The Court: You understand what it is?

The Witness: Oh, I think so. You see, I had an interview with a Mr. Simeral, and at that time he explained to me the facts of the case, because I never did understand them myself quite clearly. Your Honor, may I ask you something?

The Court: In just a minute.

The Witness: Oh, all right.

The Court: Well, you understand that this ordinance here, in Section 2, says that no persons shall occupy or resort to any building or rooming house with a person to whom he or she is not married, either for the purpose of having sexual intercourse or any other immoral purpose. This complaint charges you with resorting at a rooming house, to-wit, room 32, Royal Palms Annex, and so forth, with a person to whom you were not then married, for the purpose of having sexual intercourse. You understand that, do you?

The Witness: Well, the complaint was false; the charge was false.

The Court: You understand the law, and that that is what the complaint states?

The Witness: Yes. I understand that.

The Court: And in the second count it says you registered at a hotel under a name other than your own, in violation of [5] the ordinance at Palm Springs. You understand that?

The Witness: I understand that, although—

The Court: We will come to that later. You understand that?

(Testimony of Esther Pupko)

The Witness: Yes, I do, your Honor.

The Court: Excuse me a moment. All right, proceed.

Mr. Barth: I wish to clarify one point there, your Honor. The docket record shows the complaint was amended.

The Witness: That is true.

The Court: The complaint was amended?

Mr. Barth: At the time of the hearing.

The Court: It says, "Complaint amended with leave of court, adding Count 2, charging violation of Ordinance No. 127 City of Palm Springs," which is the ordinance making it an offense to register in a hotel room under some name other than your own.

Mr. Barth: Does your Honor have the copy of the complaint there?

The Court: Yes. I see the underscoring here, "and for other immoral purposes," but it doesn't say anything in the docket about it.

Mr. Barth: In the certification of the complaint I think that the judge certifies that the amendment was made at the time of the hearing.

The Court: Oh, I see the notation, "underscored portion [6] and second paragraph constitute amendment to complaint."

Mr. Barth: I mention that so as to get the record clear in your mind as to what it is, your Honor.

The Court: Very well.

Now, don't worry. You are going to get a full opportunity to tell your story.

(Testimony of Esther Pupko)

The Witness: Thank you.

By Mr. Barth:

Q. Miss Pupko, on or about July 12, 1944, you filed in this court a petition for naturalization, under the general provisions of the Nationality Act of 1940?

A. Yes, sir.

Q. Now, in connection with that petition you did file prior to that time an application to be used by the Service in connection with your petition?

A. I am sorry, I don't think I understand what you mean.

Q. Did you file, prior to July 12, 1944, an application to be used by the Service in connection with your petition?

A. By the Service?

Q. The Immigration and Naturalization Service?

A. The first time I filed a petition was in New York City, prior to coming to California, but after that I came to California, and under the law you have to reside six months in a state before you can even file a petition. Isn't that true? So I filed a petition here in California. [7]

The Court: He just asked you if you filed it.

The Witness: Yes, I said I did.

Q. By Mr. Barth: I will show you an application form, and ask you if you have ever seen this.

A. Yes, I filled this out myself.

Q. Will you examine that application form on both sides? Is that entirely in your handwriting?

A. Yes, this is my handwriting, my printing, and my signature.

(Testimony of Esther Pupko)

Q. And is this your signature on the reserve side of it, Miss Pupko? A. Yes, sir.

Q. I direct your attention to Question No. 30 on the application form, reading as follows:

“Have you ever been arrested or charged with violation of any law of the United States, or state, or any city ordinance, or traffic regulation? If so, give full particulars.”

There appears the printed answer, “No.” Did you make that answer to that?

A. Yes, I did, but I told Mr. Simeral why I did it, and you stated what the reason was just a few moments ago.

Q. This is the application filed July 12, 1944?

A. That is correct. Your Honor, I explained the reason I did that was because, after all, I don't know the procedure [8] of law, and I didn't know if they would completely abandon my petition if I said that I had been convicted, because I say I was falsely convicted, and I don't suppose the law—I don't know if the law takes that into consideration or not, in the petition for naturalization, but I thought that if I would say, “No,” why I knew that I would be under investigation, and I welcomed that investigation, because I knew if they did investigate they would call me into account to state the facts of the case, which is what I wanted, and which is just what happened.

In my interview with Mr. Simeral I explained all the facts in the case. I explained how I was threatened with arrest by this police officer who tried to force all his attentions on me, and who carried out his threat.

(Testimony of Esther Pupko)

Mr. Barth: May it please the court, we find this situation in some of these cases, but the government is not prepared to retry a criminal case where there is a record of conviction. I do not want to limit the petitioner, but I want to make the objection that this is immaterial.

The Court: Let's proceed with the questioning, and we will get to your side of it when the government gets through with their side.

Q. By Mr. Barth: Now, Miss Pupko, on July 12, 1944, you appeared at the office of the Immigration and Naturalization Service and filed your petition?

A. Yes, sir. [9]

Q. And you appeared with your two witnesses, Jean Chayet and Sally Leonard?

A. Right.

Q. And you were called into an examination room and called before Mr. Davis?

A. Yes.

Q. Did you make a statement?

A. Yes.

Q. At that time you were placed under oath?

A. Yes, I was.

Q. And sworn to tell the truth?

A. Yes, I was.

Q. At that time did he ask you questions concerning that application that has been offered in evidence here, as to your name and address, when you came to this country, whether you were married, and asked you if you had ever been arrested?

A. Yes, he did, and I said, "No."

Q. You said "No"?

A. Yes, sir.

(Testimony of Esther Pupko)

Q. He asked you if you had been on relief?

A. I don't recall his asking that question. Perhaps he did.

Q. He asked you questions about the government?

A. Yes, he asked me questions concerning civic matters. [10]

Q. At the time you answered Mr. Davis, "No," you knew the answer was false, didn't you?

A. Yes, I did.

Q. Now, subsequent to your examination, your witnesses were examined one at a time, weren't they?

A. Yes, they were.

Q. And after they were examined, you all three were called to appear before the Clerk of the United States District Court and were sworn in? A. Yes.

Q. Did you execute the petition for naturalization which you filed on that day? A. Yes, sir.

Q. And after that time you went into a hearing room, after you signed the petition before the clerk you proceeded to a hearing room, you and your witnesses together?

A. I don't recall. I can't seem to remember if we went.

Q. Didn't you go with the two witnesses, and all of you were in a room together?

A. Yes, I remember now. Yes, indeed.

Q. And at that time Miss Parker, the young lady sitting here, examined you? A. No.

Q. Didn't this young lady here examine you?

A. I don't recall it. It is possible [11]

(Testimony of Esther Pupko)

Q. At that time did she give you an oath to tell the truth?

A. I remember we went into a court room, and the judge was a woman, and it might have been the young lady sitting here. I don't remember.

Q. At that time she swore you and your witnesses to tell the truth? A. Yes; yes.

Q. She also swore you to the effect that all testimony given before Mr. Davis had been true? A. Yes.

Q. And did she ask you at that time if you had been arrested?

A. I don't recall her asking me individual questions. She may have, but I don't recall. It seems to me she asked me if I had answered truthfully all questions asked. She may have asked me that question particularly, but I don't recall.

Q. You don't recall whether she asked you or not?

A. No, I don't.

Q. If you had been asked the question, your answer would have been "No"?

A. Well, to tell the truth. I am sorry, now, but you don't know what you would do.

The Court: I think that is speculative, counsel.

The Witness: I don't know what I would have done at the [12] time.

Q. By Mr. Barth: What did she ask you?

A. I think she asked me if all questions I had answered, if I had answered them truthfully, to the best of my knowledge, and I think that was the procedure.

(Testimony of Esther Pupko)

Q. Is that the only thing she asked you?

A. I can't remember, sir, the exact words she spoke to me. That was over two years ago.

Q. Did she ask you any more questions?

A. I can't remember. I do remember her asking me if I answered the questions honestly, and I swore to it, and that one question I had not answered correctly.

Q. Did she ask you if you were married?

A. Well, I remember the examiner asking me that. I can't remember if Miss Parker, you say her name is, if she asked me if I was married.

The Court: Have you ever been married?

The Witness: No, I never have been.

Q. By Mr. Barth: Now, Miss Pupko, what is your occupation?

A. At the present time a photographer. I am employed in a photographic studio as a retoucher and colorist, and I am also a photographer.

Q. You lived in New York for some years?

A. I lived in New York ever since we came to America. [13] I was just out here.

Q. You came to California when?

A. I came to California August 3rd, I think that is the exact date, 1941, and I filed a petition as soon as I came here.

Q. And shortly after you came here, were you employed as a taxi dancer?

A. The reason I took the job, I don't know if it is important, is because I couldn't find any work. Jobs were very difficult to find, and a man accosted me and asked me if I wanted to be a taxi dancer. At first I refused,

(Testimony of Esther Pupko)

but then he said it was perfectly all right, and so I took the job.

Q. You were registered and licensed as a taxi dancer in the City of Los Angeles? A. Yes, I was.

Q. How long did you work at that occupation?

A. I went to work until October, and I must have worked there about five or six months; perhaps less. I am not sure. I don't remember the exact time.

The Court: Where was that, that you worked as a taxi dancer?

The Witness: At the Roseland Dance Hall.

The Court: At the Whizzland?

The Witness: At the Roseland.

The Court: Very well. Go ahead.

Q. By Mr. Barth: Now, Miss Pupko, why did you do down [14] to Palm Springs?

A. At that time I had been working as a waitress in the commissary at Twentieth Century-Fox, and the work was too difficult for me. Well, I didn't have a complete nervous breakdown, but I became ill and needed a vacation. That is the reason I went down there.

Q. And while you were there, did you go to work anywhere? A. Yes, I did. I had to.

Q. Where did you go to work?

A. I went to work at a coffee shop right where I was, at the Royal Palms, and I might state I didn't work—I wasn't employed two hours when the officers whom I would like to tell you about came in.

The Court: Just answer the question. We will let you tell your story later.

(Testimony of Esther Pupko)

The Witness: He said—well, anyway—

The Court: The question is, did you go to work?

The Witness: Yes. I tried to.

Q. By Mr. Barth: Did you work at the Club Cabana?

A. One night. That was the fateful night.

The Court: What were you doing there?

The Witness: In the capacity of a waitress.

The Court: At the Club Cabana?

The Witness: Yes. [15]

Q. By Mr. Barth: Weren't you working as a barmaid? A. Please, may I add this?

The Court: Wait. Just answer the questions.

Q. By Mr. Barth: Were you working as a barmaid?

A. No, not a barmaid, a waitress. That is not the same as a barmaid.

Q. And you worked there the evening you were arrested?

A. That is the evening. That is the same evening, yes, sir.

Q. When you went down to Palm Springs, what name did you register under?

A. Elaine Parker. I had known many people registered at hotels under different names, and I registered under the name of Elaine Parker.

The Court: At the Royal Palms?

The Witness: Under the name of Elaine Parker.

The Court: All the time you were there?

The Witness: Yes, your Honor.

(Testimony of Esther Pupko)

Q. By Mr. Barth: That is the first time you ever used that name?

A. The very first time. Well, I had told friends that I was going to call myself that.

Q. Just answer my question. Is that the first time you ever used that name? A. Yes, sir. [16]

Q. You registered every other place under the name of Esther Pupko?

A. I have never registered any other place under the name of Elaine Parker.

Q. Now, directing your attention, Miss Pupko, to January 8, 1945, do you recall appearing before an officer of the Service, the Immigration and Naturalization Service?

The Court: Pardon me, counsel, before we get away from Palm Springs there. I can't tell from reading this transcript just the thing that she was convicted of. It says she was found guilty on both counts. The first count states that she resorted for the purpose of sexual intercourse and other immoral purposes. Is there any evidence about what the testimony was there?

Mr. Barth: The only evidence we have, your Honor, as to that is the report of conviction.

The Court: What were the other immoral purposes? I mean, do you have any record of it?

Mr. Barth: Your Honor, the only record is the report of the conviction and I have a report of the investigator, as given to the Service by the judge down there, as to what occurred, and we have in the petitioner's statement her version of what happened.

(Testimony of Esther Pupko)

The Court: All right. We will come back to it, then. You were about to go to another phase, I think. [17]

Q. By Mr. Barth: 'Now, Miss Pupko, you knew on these various occasions that you testified under oath, at the time you filed your application or petition for naturalization, that the answer with respect to your never having been arrested was false; isn't that true?

A. I don't think I understand what you mean. Perhaps you can clarify that. The first time I filed a petition I never had been arrested. My answer of "No" to that question was perfectly true.

Q. I am referring to the petition in Los Angeles.

A. Do you mean the first time I filed a petition, for my first papers?

Q. In Los Angeles. A. Or my second papers?

Q. Your second papers.

A. My second papers. You are right. I answer "No," and it was false, to the second papers.

Mr. Barth: That is all, your Honor, all the questions I have to ask.

By the Court:

Q. Now, what about this Palm Springs matter?

A. Well, I would be very happy to tell you the circumstances about it.

Q. All right.

A. I would like to tell you what happened concerning [18] this arrest. You see, I had gone down with my girl friend. Every time I think about it I become very excited. May I have a glass of water?

The Court: Yes. You will get a glass of water for the witness. Do you want an aspirin tablet?

(Testimony of Esther Pupko)

The Witness: No, thank you. Thank you.

By the Court:

Q. First of all, let me ask you—

Q. First of all, let me ask you,— A. I am sorry.

Q. —how old are you now? A. 25.

Q. You are 25 years old? A. Yes, your Honor.

Q. You have never been married?

A. No, your Honor.

Q. With whom do you live?

A. My mother, sitting right there (indicating).

Q. Have you lived with her ever since you have been in California?

A. No, your Honor, because I came here all by myself.

Q. When did she come here?

A. She came in February, 1943, just after the Palm Springs happening.

Q. Until that time you lived by yourself?

A. Yes. [19]

Q. Did you earn a living, or did you have an income?

A. Yes, I always worked.

Q. What was your occupation?

A. First, as has been shown in the testimony, I was employed as a taxi dancer, but there wasn't anything wrong about that.

Q. Just tell us what it was, and I will make up my mind about it.

A. The first thing I did was find employment as a waitress, which I couldn't do.

(Testimony of Esther Pupko)

Q. Whereabouts was that?

A. They sent me to a place on Los Angeles Street.

Q. You went to an employment agency; is that it?

A. Yes, I went to McDonnell's Employment Agency, and they sent me to a place as a waitress.

Q. How did you happen to come out here?

A. Oh, I came—

Q. Did you come with somebody?

A. I came alone, but I had a letter to a dear friend of my aunt's, and I lived with her. She was a woman with a family, a husband and children, and she was very, very sweet to me, and I lived with her.

Q. Now, let's go back here. When you got here, you got a job as a waitress? A. Yes. [20]

Q. And you found you could not do that, and you took a job as taxi dancer?

A. No, after that I took a job in a cosmetic factory.

Q. How long did you have that job?

A. About two weeks.

Q. About two weeks? A. Yes, your Honor.

Q. Then what did you do?

A. Then I had to quit that job, I couldn't do the work, I had to get another job, and then I happened to meet this man, and he asked me wouldn't I like to be a taxi dancer. And as I stated before at first I refused. And he said there wasn't anything wrong with it, there was nothing you had to be ashamed of, and he says, "All you do is dance," and I have always liked dancing, and I had never known what that type of work was, I mean what it was like, so I went up there. And, well, I used

(Testimony of Esther Pupko)

to make an average of about \$25.00 or \$30.00 a week, which at that time, four years ago, was not too bad, and I sent money back home.

Q. Tell me what you did next. How long were you a taxi dancer?

A. I think about six months. I can't remember.

Q. What did you do next?

A. Then after that I took a job as a cashier in the Sunset Bowling Alley [21]

Q. Yes.

A. And I earned \$18.00 a week there. Then I went to a place on Vine Street, which was opening up, that needed waitresses, and I figured as a waitress I could make pretty good money. And I had that job about two months, as a waitress, and at the time of the Palm Springs incident I was working as a waitress.

Q. You went from the Sunset Bowling Allen to Palm Springs, now, did you?

A. No. I can't remember, but I had various jobs, mostly as waitress.

Q. You worked mostly as waitress in different types of places?

A. Yes, because I had no trade at that time.

Q. I see. You worked at the Twentieth Century-Fox, you say, in the commissary? A. Yes.

Q. And you had to quit that?

A. Yes. In fact, every time I took a job as a waitress I had to quit because the work was too hard for me.

Q. Then you went to Palm Springs?

A. Yes, with my girl friend.

(Testimony of Esther Pupko)

Q. What is her name? A. Carole Palmer.

Q. Carole Palmer. Is she here today? [22]

A. No. I haven't seen her for a long time.

Q. Was she a witness too?

A. Yes, sir. Yes, your Honor.

Q. Then you went down to Palm Springs, and after you left Palm Springs, what did you do?

A. Oh, after I left Palm Springs I came back to Los Angeles, and I received a letter from my mother that she was coming out with her sister and her children, so I found an apartment.

Q. Well, did you go to work? What did you do then?

A. Yes. I worked as a camera girl. In this place on Vine Street, when I worked on Vine Street, I met a man who said I would be good as a photographer in a night club. So I went to work for a few weeks, and I didn't work for him very long, and after that I took this waitress job. But after my mother came out, I got in touch with this man again, because I needed work, and he employed me as a camera girl at a pretty good salary.

Q. How much?

A. Well, he gave me \$30.00 a week, but I made bonuses.

Q. Tips, you mean?

A. Yes, but mostly bonuses. The bonus was what I counted.

Q. Where were you working?

A. Taking pictures in a night club. [23]

(Testimony of Esther Pupko)

Q. Of men out with other men's wives?

A. That is correct, your Honor. Then I became interested in photography, and I took it up as my profession, and I am a pretty good photographer.

Q. How long ago was that,—two years ago?

A. Two years ago.

Q. What is the name of the place where you work?
Who is your employer?

A. Well, at the present time I am working at a studio.

Q. Who is your employer now?

A. His name is Charles Craig.

Q. Is that the name of his studio?

A. The studio is the De Ments Studio. I am only afraid I am going to be fired for taking the day off, for this day is a week day.

Q. Are you more worried about that than you are about getting your citizenship?

A. No, your Honor.

Q. Then, if I understand you correctly, ever since you arrived in California in 1941, you have worked continuously and supported yourself?

A. Yes, your Honor.

Q. And you have received no aid or assistance in that respect from any person other than your blood relatives?

A. I have never received assistance from anyone except [24] my mother, because when I didn't work, sometimes she works, and when she doesn't work, I work.

Q. You have supported yourself?

A. Since I was 16 years old.

(Testimony of Esther Pupko)

Q. And in the occupations which you have outlined?

A. Yes, your Honor.

Q. Now, this incident at Palm Springs, do you want to tell me about it?

A. I would like very much to tell you about it.

Q. Go ahead.

A. Well, do I have to wait for questioning?

Q. Tell me about it, what happened.

A. Well, I had been there a week, and I found I was running out of money because I didn't know it was so expensive to live down there. So, as I say, before I took a job in the coffee shop I had been there for two hours when—I am sorry—two officers came in and had me discharged for no apparent reason.

Q. How do you know they had you discharged?

A. Because I saw them talking to the manager, and he called me over and said, "I am sorry, you can't work here any more." I said, "Why?" He said, "I am sorry, but you just can't work any more." But in my heart I knew the reason why.

Q. Did anybody tell you any reason?

A. No one had to tell me. I knew the reason without [25] having any one tell me. After all, there is such a thing as psychology, your Honor.

Q. I didn't know that.

A. I will tell you what the reason was.

Q. Not unless you saw somebody do something—

A. It refers to the case.

Q. —or unless it was something somebody said to you.

(Testimony of Esther Pupko)

A. Then just suppose we forget about it. You see, I was with my girl friend, and she had gone out with a man who said he was the manager of a club, and he took us around, and he took us to an Inn, and it started to pour down rain. Now, here is the way I happened to meet this police officer. My girl friend and I had gone down there—

Q. What police officer?

A. That is what I am coming to. My girl friend and I had gone down to Palm Springs the week before to see how we liked it. We took the bus or train and we found ourselves stranded because there was no place to register for the night. So we went to the police station, and we met a police officer whose name I don't remember. He said, "You drive around in my car until the train leaves for Los Angeles." He says, "I have to go out on my beat," and he took us along, and I thought at that time that was very nice of him. So then we took the train back, and went back to Los Angeles. The next week I said, "Well, I think Palm Springs is very nice." So we went [26] down again, and I took \$40.00 with me exactly, it was all I had, and I registered under the name of Elaine Parker. I never thought that was a misdemeanor, your Honor, because I had known people were registered at a hotel under different names, but it might have been against the law.

Q. You go ahead and tell me what happened, not what you thought.

A. Anyway, this was about four days after we had arrived, and as I said, my girl friend and I were in this place, and it started to pour down rain, and there was

(Testimony of Esther Pupko)

no way for us to get back to the hotel, and this policeman happened to come around, and he said, "I will take you back home, if you want to go." I said, "Fine." And my girl friend, she said, "I will stay for a while yet." So Harry, this other man, he said, "I will take Carole home." So I accepted the police officer's invitation, from the Carolina Inn, that is where we were,—

Q. To do what? A. To go home.

Q. From the Carolina Inn? A. Yes.

Q. And where was the fellow who brought you there?

A. He was still there. His name was Harry, and they wanted to stay, he and my girl friend wanted to stay. There were more people there, and they were having fun. Everybody [27] was in the lobby waiting for the rain to stop for them to go home, but I was in a hurry, and as he was nice enough to take me home, I went. But he didn't take me home. He stopped, and he tried to force his attentions upon me. And I asked him if that was nice of him, and said, "After all, you are a police officer." He said, "What did you come here for?" And I said, "I came because I had a nervous breakdown and needed a vacation." He said, "Well, that is all right," but he still tried to force his attentions on me. And before that he told me he was unmarried, when afterwards I found out that he was married and had a child in the Riverside Hospital. When I refused his attentions, he said, "I will fix you. I will get you in trouble for this. What did you come out here for?" And I became very angry, and I said, "You let me out of here."

Anyway, I think it was the day after that I went into this coffee shop for employment, and was hired, and

(Testimony of Esther Pupko)

then I hadn't been there two hours when the two men came in, and I was discharged. That is the reason I surmised what the reason was.

Q. All right. Now, let's get down to this incident.

A. This was on a Saturday night, when this happened, and I was becoming, well,—

Q. Tell me what happened, not what you were becoming.

A. I didn't have much money, and I was afraid I might not be able to get back to Los Angeles, and I didn't want to [28] be stranded in Palm Springs.

Q. All right.

A. I am sorry. I am sorry. Please forgive me.
(Witness weeping.)

The Court: Just a moment. We will take up fixing the time for hearing these other cases.

(Discussion with reference to other cases.)

Q. By the Court: All right. Will you continue now?

A. Well, I will start with Saturday night. This was Saturday night, and I decided that I might not have sufficient funds to get back to Los Angeles with, so I decided to take a job. So I went into the Club Cabana and asked the manager if I could have a job as a waitress, which he gave me. So that evening my girl friend, Carole, went to the movies and I went to work. While I was working two Army officers came in, and I found out one of them was from New York City, from the Bronx, to be exact, and we started talking about New York, and they were very friendly, and, of course, very gentlemanly. And they waited around until 12:00 o'clock,

(Testimony of Esther Pupko)

they wouldn't leave. At 12:00 o'clock I started to go home, and they followed me and asked me if I would allow them to take me home, and I said, "I only live next door at the Royal Palms." They said, "Please let us take you anyway." And in the lobby I said, "Well, now, I must go up." They said, "Please allow us to walk up to the door with you." [29]

Q. And the long and short of it is that they wound up in your room?

A. No, your Honor, they didn't wind up there because when they got to my door, when I got there, my girl friend was in bed, and she said, "I am hungry." And I said,—I introduced her to the boys. The boys were still outside, and so one of them said, "Well, I will get a sandwich for you." So they both walked away, and while they were away, I said to my girl friend, "Now, they are gone, I will get undressed, so I will have a good excuse so they won't come in." So I put on pajamas and a housecoat over that, and, as a matter of fact, the boys had told me that they were due at a place, a desert center, at 6:00 o'clock in the morning, and they even had their motorcycle, so they could not have stayed very long anyway. And when they came back I did allow them to come in to say goodnight, and before I knew it the door was pounced upon, and in came the police officers and arrested me for resorting, whatever that is.

Q. Did these two soldiers appear and testify?

A. No, I never saw them again.

Q. Did they appear at the trial? A. No.

Q. Who appeared at the trial as witnesses?

A. Nobody.

(Testimony of Esther Pupko)

Q. Didn't the policemen? [30]

A. Oh, I am sorry, the policemen, yes. And that is what I wanted to say. At the trial the policemen were questioned, and you even might call it perjury, I don't know, but the police officers, especially one of them, gave testimony that my—well, actually it might not be perjury, but they did withhold evidence that would have been in my favor, but they purposely withheld that evidence so as to make us appear guilty, and to me that was a very important factor, your Honor.

Q. I see.

A. Besides that, they took us—well, to me I understood the whole thing was a frame, and only because he wanted to get us in trouble, because when they took us to the police station, they made a huge joke out of it, and laughed, because to them it was a great farce.

The Court: Any other questions?

Mr. Barth: Just one or two, your Honor.

Q. By Mr. Barth: I didn't quite understand, Miss Pupko, who the man was that you said made advances towards you? A. He was a police officer.

The Court: The police officer who had driven you and your girl friend around the week before?

The Witness: Yes, sir.

The Court: And who was taking you home alone that night, leaving the other girl with your boy friend? [31]

The Witness: He wasn't a boy friend. He was almost a perfect stranger to me.

The Court: But he was the fellow that took you there?

The Witness: Yes.

(Testimony of Esther Pupko)

Q. By Mr. Barth: And this is the same police officer—

A. Yes, sir.

Q. What is his name? Harry?

A. No, Harry was the man who was the manager of the club, who had taken us there. The police officer I never saw that night until he offered to take me home. I had met him the week before.

The Court: Do you know the names of the two soldiers?

The Witness: I don't know anything about them.

The Court: Do you know their names?

The Witness: I don't know their names, your Honor.

The Court: Did you know their names that night, or any names they gave you?

The Witness: They did introduce themselves to me, but I can't remember what their names were.

The Court: All right.

The Witness: For all I know, they may even have been planted to get us into trouble. I don't know. I wouldn't swear to that because I have no proof. They arrested us without proof, without anything. They just came in, and when I was arrested, I was standing. Of course, my girl friend was [32] in bed, but I had my pajamas and housecoat on, and the boys were fully dressed. They had no reason, no right to say we had intended to resort.

The Court: Have you any more facts to tell me, without any more argument from you?

The Witness: Well, there is a lot I could say. That hurt me deeply.

(Testimony of Esther Pupko)

The Court: I understand about that, but I am talking about any other facts. You have told me.

The Witness: Your Honor, there is only one more thing. I understand that I was not the only one that had happened to.

The Court: I am not interested in that. Policemen don't go around framing people.

The Witness: I discovered there were some girls.

The Court: No, you just tell me your story, and I will make up my mind about it.

The Witness: Yes, your Honor.

The Court: Do you have anything else to say? Do you have any other facts at all?

The Witness: Only the fact that I have never done anything.

The Court: All right. You may step down.

(Witness excused.)

The Court: The character witnesses for this petitioner, they have been examined, have they? [33]

Mr. Barth: Yes.

The Court: And they speak well of her character?

Mr. Barth: Yes. I would like to place Miss Parker on the stand, your Honor, to testify as to the false testimony of the petitioner before her.

The Court: Oh, I assume it is true that she made the false oath there, but if you want to make your record, you may do so.

The Petitioner: Your Honor, I explained to Mr. Simeral the reason.

The Court: I know, and you have explained it here. You have explained it about three times.

Mr. Barth: I should like to put Miss Parker on the stand, your Honor, because the petitioner denied it, I believe.

The Court: Oh, I understood the petitioner admitted it.

Mr. Barth: She wasn't sure whether Miss Parker had asked her that question or not.

The Court: I see. Call your witness.

KATHLEEN PARKER,

called as a witness by and on behalf of the government, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: State your name, please.

The Witness: Kathleen Parker.

The Clerk: Your office address?

The Witness: Pardon?

The Clerk: Your office address?

The Witness: Room 100 Rowan Building.

By Mr. Barth:

Q. Miss Parker, you are employed by the Department of Justice, Immigration and Naturalization Service?

A. Yes, sir.

Q. You were so employed on or about July 12, 1944?

A. Yes.

Q. At that time you were acting as a designated examiner?

A. Yes, I was.

(Testimony of Kathleen Parker)

Q. I show you a certificate of petition relating to one petitioner, Esther Pupko, No. 119703, and ask you if you have ever seen that before.

A. Yes, I was the designated examiner when that petition was filed.

Q. At that time did the petitioner and the two witnesses appear before you? A. Yes.

Q. And was the petitioner sworn to tell the truth at that time? A. Yes, she was.

Q. And the witnesses were placed under oath as well?

A. The witnesses also. [35]

Q. At that time did you conduct a preliminary hearing of the facts set forth in that petition on the reverse side thereof? A. Yes, I did.

Q. And during the course of the examination did you ask this petitioner if she had been arrested?

A. Yes.

Q. And what was her answer?

A. Her answer was, "No."

Q. Did you interrogate the witnesses with reference to this petitioner? A. Yes.

Q. Did they say the petitioner had been arrested or not? A. Not to their knowledge.

The Court: Is there any record or was there any record before the Naturalization Examiner or yourself, or any records in the file, that this petitioner at any other time has engaged in the act of resorting or has at any time been engaged as a prostitute?

The Witness: No.

The Court: There is not?

(Testimony of Kathleen Parker)

The Witness: No.

The Court: Very well.

Mr. Barth: That is all, your Honor, except I would like to make a few remarks. [36]

The Court: All right. Step down.

(Witness excused.)

Mr. Barth: The point that strikes me in this matter, your Honor, is the falsity of the testimony given by the petitioner. It is apparent that she signed her application in July, 1944, and that she at that time determined not to reveal the arrest to the Immigration and Naturalization Service, and evidenced that intention by filing an application to file a petition in which she answered the question as to whether she had ever been arrested, "No."

Carrying out that plan, when she was sworn on two occasions on July 12, 1944, and asked that question, she again answered, "No."

Now, there are two things that might have happened. She may have figured that the arrest occurred in Palm Springs and if it were not discovered, then there would be nothing to be brought to her attention, and if it were discovered, then she would have her explanation ready.

Now, the cases hold, and I think they are legion, that it is the duty of the petitioner in her application for naturalization, and for anyone who is seeking the privilege of citizenship, not to give false testimony. The burden is not on the government to find out whether she has testified falsely or not.

Now, it seems to me that the petitioner had not told us [37] all about herself, and did so knowingly and

wilfully, and by so doing she has not met the requirements of moral character that are contemplated by the Naturalization Statute. I can refer your Honor to the case of—

The Court: Well, there is a great deal of authority for that, I know.

Mr. Barth: I am referring to cases where there have been arrests.

The Court: I know, but it poses a rather difficult problem. I think it speaks somewhat in favor of the qualifications for citizenship if she does not want to disclose she was arrested for resorting. There is no record that she was a professional prostitute or even a loose woman, other than this one incident, and which, apparently, has been very shocking and upsetting to her.

Mr. Barth: Well, it seems to me that no matter what the acts were, who the persons were, it seems to me that the important thing is that she knew what it was to take the oath. She is a smart girl and she could have explained all these things to us just as well at the time she filed the petition rather than to wait to find out whether it would be uncovered. Now, we found it out, and, mind you, only by reason of the fact that she was considered a citizen of Rumania and, therefore, had to be investigated under Section 326 of the Nationality Act, which entails securing an F.B.I. report. That was the [38] first notice we ever had that she had been arrested. Otherwise we would have taken her statement, her testimony, as true. There was no other record. She testified to nothing that would indicate that she had been arrested. We found it out, as I said, solely because she came under Section 326, and then the matter was

further investigated. Now, if we hadn't had that investigation, the case would have been recommended, probably, because we do not check police records unless we have some reason to believe a person has been arrested or something else comes to our attention to get us interested.

Now, it seems to me that these petitioners should be frank and answer all questions truthfully, and had she done so, she would have been accorded an opportunity to explain at the time, and, in fact, better then than later.

I submit, your Honor, that she has testified falsely before, and I think the petition should be denied on that basis.

The Petitioner: Your Honor, may I say something?

The Court: Go ahead.

The Petitioner: I would like to state that at the time I made that falsehood, there was no doubt in my mind that I was going to be investigated. Mr. Barth is trying to make it appear that I may have had a plan to conceal that evidence, which is not so, your Honor, because I didn't know at that time that I was going to be classified the way he says, as a [39] Rumanian. How would I know? But there was no doubt in my mind that they were going to find out, and I was hoping they would find out and that if they would really investigate deeply into it they might find out why the police officers are going around making those false arrests. Perhaps I should not be concerned with others, that I should be only concerned with myself, but I will say if I was concerned only with myself that I was hoping that they would find out that it was the police officer that had seen to it I was put in trouble.

The Court: Now, you don't help your case any with me by continually referring to false arrests by policemen. I know a lot of them do a lot of things, but, as I say, you are not helping your case.

The Petitioner: I am only trying to make the court understand.

The Court: Well, Mr. Barth, I think I am going to grant the petition. I think the woman is subject to a very severe condemnation, but I am going to grant the petition.

Now, are you going to complete this naturalization now? In other words, shall we administer her oath now? Who is going to handle this next matter?

Mr. Barth: I am going to, your Honor.

The Court: Then you are going to remain here?

Mr. Barth: I will, yes.

The Court: I thought if you wanted to complete this, [40] the oath could be administered and she could go into the clerk's office. I will administer the oath to her. Of course, you may want to take an appeal in this case.

Mr. Barth: I should like to. I should have to submit the matter, of course, your Honor, to learn what the decision of the Service will be.

The Court: I will administer the oath.

Mr. Barth: I assume in these matters the exception is automatic?

The Court: An exception is noted.

(Thereupon the oath was duly administered.)

Mr. Barth: At this time, with the permission of the court, may I withdraw the application?

The Court: Certainly. All the material here, if you wish.

Mr. Barth: I would prefer to leave the other matters in evidence.

The Court: All right. They will be numbered Government's Exhibit No. 1, all of them.

(The documents referred to were marked as Government's Exhibit No. 1, and were received in evidence.)

Mr. Barth: That is all.

[Endorsed]: Filed Mar. 19, 1946. [41]

[Endorsed]: No. 11284. United States Circuit Court of Appeals for the Ninth Circuit. Albert Del Guercio, District Director, Immigration and Naturalization Service, United States Department of Justice, District No. 16, Appellant, vs. Esther Pupko, Appellee. Transcript of Record. Upon Appeal From the District Court of the United States for the Southern District of California, Central Division.

Filed March 27, 1946.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals
For the Ninth Circuit
No. 11284

In the Matter of the Petition of
ESTHER PUPKO,
For Naturalization.

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY ON APPEAL.

The points upon which appellant intends to rely in this appeal are as follows:

The Trial Court erred:

(1) In finding that appellee during the five years immediately preceding the filing of her petition for citizenship was a person of good moral character as required by Section 307 of the National Act of 1940 (8 U. S. C. A. 707).

(2) In finding that the concealment by the appellee of her arrest and conviction of a crime within the statutory period did not constitute bad moral character.

(3) In granting citizenship to appellee.

Dated: This 25th day of March, 1946.

CHARLES H. CARR

United States Attorney

RONALD WALKER and

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Assistant United States Attorneys

By Clyde C. Downing

Assistant United States Attorney

Received copy of the within statement of points on which appellant intends to rely on appeal on this 25 day of March, 1946. Morris Lavine, Attorney for Appellee.

[Endorsed]: Filed Mar. 27, 1946. Paul P. O'Brien, Clerk.

